



State of Washington
Department of Revenue

Excise Tax Advisory

Excise Tax Advisories (ETA) are interpretive statements issued by the Department of Revenue under authority of RCW 34.05.230. ETAs explain the Department's policy regarding how tax law applies to a specific issue or specific set of facts. They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

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LEASE CANCELLATION PAYMENT

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Does a mutually agreed upon but premature termination of a lease of personal property entitle the lessee to a refund of sales tax paid on the amount of a settlement agreement?

The taxpayer leased for five years a time-temperature and display sign remitting monthly payments. After three years, by mutual agreement, the taxpayer and seller cancelled the lease; the cancellation agreement called for acceleration and payment of 75% of the unmatured rental payments. The taxpayer contended that without further use or possession of the display sign, the 75% settlement amount did not constitute either rental income or a substitute for rental income.

RCW 82.08.010(1) defines "selling price" as including any "consideration whether money, credits, rights or other property, expressed in the terms of money paid or delivered by a buyer to a seller. . . ." The Department of Revenue ruled that the negotiated settlement was consideration arising out of the original lease; it effectively decreased the term of the lease and increased the rental payments for the actual period of use. Hence, the taxpayer was not entitled to a refund of sales tax paid to the seller on the settlement agreement.

ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2 (plus three digits) are new advisories, ETBs that have been revised and readopted after review under the Department's regulatory improvement program, or advisories that have been revised and/or readopted.

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